

Atty. Docket No.  
005127.00033

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Patent Application of:  
**Daniel R. Potter, et al.**

Application No.: 10/099,685

Filed: March 14, 2002

For: Custom Fit Sale of Footwear

Examiner: Andrew J. Rudy  
Group Art Unit: 3627  
Confirmation No.: 4915

**REMARKS ACCOMPANYING NOTICE OF APPEAL**

Honorable Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

Applicants hereby submit a Notice of Appeal in the above-referenced matter. Previously during prosecution of this matter, Applicants filed a Notice of Appeal. *See* Notice of Appeal Filed January 10, 2005. In response to Applicants' Appeal Brief, the Examiner re-opened prosecution of this matter by issuing a Non-Final Office Action mailed June 22, 2006 that rejected the claims on newly cited references. Applicants filed a response to the Non-Final Office Action that traversed the rejections made by the Examiner. The Examiner then issued a Final Office Action that was mailed to Applicants on March 12, 2007, again citing new references to support the rejection. Prosecution in this application has been on-going.

The Manual of Patent Examining Procedure §1207.04, "Reopening of Prosecution After Appeal," states that the fees paid by the Applicants for the Notice of Appeal and Appeal Brief will be applied to a later appeal on the same application." Thus, Applicants believe that no fees are due at this time to facilitate the entry of the Notice of Appeal. If any fees are due in connection with this Notice of Appeal or if an extension of time is necessary that is not accounted for in the papers filed

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with these Remarks, the Commissioner is authorized to debit our Deposit Account No. 19-0733 for any necessary fees to maintain the pending status of this application.

Respectfully submitted,  
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